

BIRMINGHAM CITY COMMISSION MINUTES
APRIL 25, 2016
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Rackeline J. Hoff, Mayor, called the meeting to order at 7:32 PM.

II. ROLL CALL

ROLL CALL: Present, Mayor Hoff
Commissioner Bordman
Commissioner Boutros
Commissioner DeWeese
Commissioner Harris
Mayor Pro Tem Nickita (arrived at 7:34 PM)
Commissioner Sherman
Absent, None

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, City Engineer O'Meara, Building Official Johnson, City Planners Ecker & Baka, Finance Director Gerber, Deputy Treasurer Klobucar, Fire Chief Connaughton

III. PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, RESIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS, INTRODUCTION OF GUESTS AND ANNOUNCEMENTS.

04-118-16 ANNOUNCEMENTS

Kathy Walgren invited the public to attend the Boomer Summit which will be held on April 30th. She explained the details of the event and the speakers who will be presenting.

04-119-16 APPOINTMENT TO THE CABLECASTING BOARD

Mayor Hoff announced that applicant Scott Weller, 1687 Holland, withdrew his application.

IV. CONSENT AGENDA

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

04-120-16 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item A (Minutes of April 11, 2016) by Commissioner Bordman
- Item I (Special Event Request – Run on the Town) by Commissioner Bordman

MOTION: Motion by Sherman, seconded by DeWeese:

To approve the consent agenda as follows:

- B. Approval of warrant list, including Automated Clearing House payments, of April 13, 2016 in the amount of \$748,741.73.
- C. Approval of warrant list, including Automated Clearing House payments, of April 20, 2016 in the amount of \$272,505.40.
- D. Resolution accepting the resignation of Barbara Thurber from the Greenwood Cemetery Advisory Board, thanking her for her service, and directing the Clerk to begin the process to fill the vacancy.
- E. Resolution approving a three-year contract between the City and Oakland County for assessing services for the period of July 1, 2016 through June 30, 2019 and authorizing the mayor to sign the agreement on behalf of the City.
- F. Resolution setting a public hearing for May 23, 2016 to consider the proposed lot split of 1525 Chesterfield, Parcel #1926126008.
- G. Resolution approving the agreement with Sellinger Associates, Inc. in the amount not to exceed \$21,500.00 for all design services for upgrading the Heating System for the Municipal Building at City of Birmingham. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.
- H. Resolution approving the agreement with Tech Mechanical, Inc. in the amount not to exceed \$28,975.00 to replace a Vertical A/C System for the Police department located

at City of Birmingham; further charging the expenditure to the City Hall and Grounds Building Improvement account number 101-265.001-977.0000; further approving the appropriation and amendment to the 2015-16 General Fund budget as follows:

General Fund

Revenues:

| | | |
|------------------------|----------------------|---------|
| Draw from Fund Balance | 101-000.000-400.0000 | \$1,975 |
| Total Revenue | | \$1,975 |

Expenditures:

| | | |
|--|----------------------|---------|
| City Hall and Grounds-Building Improvement | 101-265.001-977.0000 | \$1,975 |
| Total Expenditures | | \$1,975 |

and further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.

- J. Resolution authorizing the City to enter into a contract with Colonial Fireworks for providing a fireworks display on July 3, 2016 (July 5 rain date) at Lincoln Hills for the sum of \$15,000, and further authorizing the administration to secure the necessary insurance. This would be contingent upon the vendor meeting all state and local laws, City requirements, and insurance requirements.
- K. Resolution approving the amended and restated Cross Connection Control Services Agreement with HydroCorp for services described in Attachment A of the agreement for five years, in the amount of \$15,780.00 per year from account #591-537.007-811.0000, and further directing the Mayor and City Clerk to sign the agreement on behalf of the City.

ROLL CALL VOTE: Yeas, Commissioner Bordman
 Commissioner Boutros
 Commissioner DeWeese
 Commissioner Harris
 Mayor Pro Tem Nickita
 Commissioner Sherman
 Mayor Hoff
 Nays, None
 Absent, None
 Abstention, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

**04-121-16 PUBLIC HEARING TO CONSIDER BROWNFIELD PLAN
 AT 34965 WOODWARD AVENUE**

Mayor Hoff opened the Public Hearing to consider the approval of a Brownfield Plan and Reimbursement Agreement - 34965 Woodward (Peabody's Restaurant) at 7:39 PM.

City Planner Ecker explained that the applicant is proposing a mixed use five-story building with retail on the first floor and office/residential above. She pointed out that there is a brownfield site to the north and to the south of the site so there is clearly proof of contamination within the block. She noted that the plan and financing table have been reviewed by the Brownfield Redevelopment Authority. She explained that the Authority reviews the costs dealing with the contamination and the costs if it was not a contaminated site, then the Authority review the difference in those costs.

In response to a question from Commissioner DeWeese on how the brownfield works and the exchange of money, Ms. Ecker explained that the developer would expend the funds for the site clean-up. If the plan is approved, the developer could submit their eligible expenses and receipts to the City. After review, the City would reimburse funds back to the developer for up to the approved amount. She noted that the City is agreeing that in lieu of charging them the first \$1.3 million of additional tax funds, it would pay them back their clean up expenses with that additional tax revenue that was generated due to the property being redeveloped ~~would not have been coming to the City unless this property was redeveloped.~~

Commissioner DeWeese noted that once that occurs, as soon as it is paid off, the developer would pay the full value of all the taxes and development. There is no giveaway here. It is in the City's interest to encourage the development as if it were a clean site.

In response to a question from Mayor Hoff, Ms. Ecker confirmed that it includes capturing taxes from Oakland County as well. Mr. Valentine noted that all the taxing jurisdictions are included.

Mr. Valentine clarified that the arrangement under the brownfield is different from a TIF as the brownfield is for the purposes of reimbursement for this specific site where the TIF is for the whole district.

The Mayor closed the Public Hearing at 7:49 PM.

MOTION: Motion by DeWeese, seconded by Boutros:

To approve the Brownfield Plan and Reimbursement Agreement for 34965 Woodward (Peabody's Restaurant) as recommended by the Brownfield Redevelopment Authority on March 9, 2016:

WHEREAS, the Birmingham Brownfield Redevelopment Authority (the "Authority"), pursuant to 1996 PA 381, as amended (the "Act"), prepared and recommended for approval by this Commission a brownfield plan dated March 15, 2016 ("the Plan") for property located at 34965 Woodward, Birmingham, Michigan; and,

WHEREAS, the City of Birmingham, at least ten days before the meeting of this Commission at which this resolution is considered, provided notice of a hearing to all taxing jurisdictions which are affected by the Plan (the "Taxing Jurisdictions") and fully informed the Taxing Jurisdictions about the fiscal and economic implications of the Plan; and,

WHEREAS, the City of Birmingham, at least ten days before the meeting of this Commission at which this resolution is considered, provided notice of the hearing to the Department of Environmental Quality and the Michigan Strategic Fund (or its designee); and,

WHEREAS, this Commission held a public hearing on the Plan at which officials from the Taxing Jurisdictions had an opportunity to be heard in regard to the adoption of the brownfield plan, interested persons had an opportunity to be heard, any written communications with reference to the Plan were received and considered, and a record of the public hearing, including all data presented at the hearing, was made and preserved.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Plan constitutes a public purpose.
2. The Plan meets all of the requirements for a brownfield plan set forth in Section 13 of the Act.
3. The proposed method of financing the costs of the eligible activities, as described in the Plan, is feasible and the Authority has the ability to arrange the financing.
4. The costs of the eligible activities proposed in the Plan are reasonable and necessary to carry out the purposes of the Act.
5. The amount of captured taxable value estimated to result from the adoption of the Plan is reasonable.
6. The Plan is approved.
7. The reimbursement agreement pertaining to the Plan is approved.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**04-122-16 PUBLIC HEARING OF NECESSITY
 WEBSTER AVE PAVING PROJECT
 REPLACEMENT OF SEWER LATERALS**

Mayor Hoff opened the Public Hearing of necessity for the replacement of sewer laterals as part of the Webster Ave. Paving Project at 7:49 PM.

City Engineer O'Meara explained that sewer laterals which are over fifty years old are routinely replaced during reconstruction projects. He noted that about 70% of the homes need it replaced. He noted that the homeowners have been notified.

Mr. O'Meara confirmed for Mayor Hoff that the sewer lateral being replaced is located in the public right-of-way from the property line to the sewer. Mr. Valentine further clarified that everything from the property line to the house is private and not included in this assessment.

The Mayor closed the Public Hearing at 7:53 PM.

MOTION: Motion by Sherman, seconded by Nickita:

To declare necessity for the replacement of sewer laterals within the limits of Webster Ave. from Adams Rd. to Eton Rd. The public hearing of confirmation will be held Monday, May 9, 2016, at 7:30 P.M.:

WHEREAS, The City Commission has passed Ordinance No. 1906, to establish and adopt requirements and procedures for the replacement of sewer lateral lines when the City street is open for repairs or reconstruction; and

WHEREAS, The City Commission is of the opinion that replacement of sewer laterals not meeting current criteria as a part of the planned road paving project is declared a necessity; and

WHEREAS, formal bids have been received and the actual cost per foot for replacement of the sewer laterals has been determined,

RESOLVED, that all sewer laterals not meeting current criteria located within the limits of the following streets shall be replaced as a part of the paving project on Webster Ave. from Adams Rd. to Eton Rd.

RESOLVED, that at such time as the Assessor is directed to prepare the assessment roll, of which 100% of the contractor's charge to replace sewer lateral (calculated at the rate of \$48 per linear foot) shall be charged to the adjoining property owners benefiting from the sewer lateral,

RESOLVED, that there be a special assessment district created and special assessments levied in accordance with benefits against the properties within such assessment district, said special assessment district shall be all properties, within the following district:

"Leinbach – Humphrey's Woodward Ave. Subdivision"

Lots 97-100 inclusive, the easterly 40 ft. of lot 101, the westerly 25 ft. of lot 104, lots 105, 106, the easterly 20 ft. of lot 107, lots 114-122 inclusive, the easterly 20 ft. of lot 123, lots 125, 127, 128, lots 132-137 inclusive, lots 140, 141, 145-149 inclusive, lots 151, 152, 155, 158, lots 161-173 inclusive, the westerly 218.05 ft. of lot 174, the easterly 10 ft. of lot 177, lots 178-186 inclusive, the westerly 30 ft. of lot 187, lots 189, 190.

"Birmingham Gardens"

Lots 420, 421, 424-427 inclusive, the easterly 15 ft. of lot 428, the westerly 25 ft. of lot 430, lots 431, 432, the easterly 35.40 ft. of lot 433, lot 435, the westerly 10 ft. of lot 436, the easterly 20 ft. of lot 437, lots 438, 439, the easterly 30 ft. of lot 441, lots 442-445 inclusive, the westerly 10 ft. of lot 446.

RESOLVED, that the Commission shall meet on Monday, May 9, 2016, at 7:30 P.M., for the purpose of conducting a public hearing to confirm the roll for the replacement of sewer laterals within the Webster Ave. Paving Project.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**04-123-16 PUBLIC HEARING TO CONSIDER A LOT SPLIT
 221 BALDWIN ROAD**

Mayor Hoff opened the Public Hearing at 7:53 PM to consider the approval of a lot split of 221 Baldwin.

Planner Baka explained that the applicant is requesting to separate out a previously added lot from the property. He explained the conditions that must be met according to the ordinance include that the minimum lot size in the area is 6,000 square feet; that all lots must meet the average lot width of other parcels in the area; that the division will not adversely affect the interest of the public and the abutting property owners. Mr. Baka explained that the lot is only 5,000 sq ft, which means the lots were platted before the zoning was established in this area. This lot does not meet that requirement due to the odd configuration of many lots and the combination of several lots in the area. He noted that no new buildings are currently proposed for this lot, however it would be eligible to have a single family home built on it which would have to meet all current zoning ordinance standards in regards to set backs, distance between buildings, and lot coverage.

He noted that the City Commission could waive the requirements in the instance that the Commission determines that the enforcement of such requirements may cause unnecessary difficulties on the applicant or if the Commission determines that the waiver of any such requirement by the Commission shall not preclude the applicant from complying with all the provisions of the zoning ordinance.

Commissioner Bordman pointed out that there are quite a few lots that are 50ft and are single family homes.

Mayor Pro Tem Nickita commented that the biggest constraints would be the side setbacks and lot coverage. If it was redeveloped, it would be somewhat congruent with what is already in the other 50 x 100 lots.

In response to a question from Mayor Hoff regarding a for sale sign on the property, the applicant explained that they desire to sell the lot and there are people interested in purchasing it.

Mayor Hoff expressed her concern with the request since the applicant bought the property as is knowing the additional space was there and by approving it, it does not meet the 5,000 square foot space requirement and it does not meet the requirement of the average lot width.

The Mayor closed the Public Hearing at 8:14 PM.

MOTION: Motion by DeWeese, seconded by Nickita:
To approve the proposed lot split of 221 Baldwin Rd.

VOTE: Yeas, 6
Nays, 1 (Hoff)
Absent, None

**04-124-16 PUBLIC HEARING OF CONFIRMATION
HAMILTON AVE PAVING PROJECT AREA
INSTALLATION OF NEW STREET LIGHTS**

Mayor Hoff opened the Public Hearing of Confirmation for the installation of new street lights in the Hamilton Avenue Paving Project area at 8:15 PM.

Deputy Treasurer Klobucar recommended adoption of the resolution to confirm the special assessment district roll #875 to defray the cost of installing new street lighting in the Hamilton Avenue Paving Project over a ten-year period.

The Mayor closed the Public Hearing at 8:15 PM.

MOTION: Motion by Sherman, seconded by Harris:
To confirm Special Assessment Roll No. 875, to defray the cost of installing new street lighting for the Hamilton Avenue Paving Project:

WHEREAS, Special Assessment Roll, designated Roll No. 875, has been heretofore prepared for collection, and

WHEREAS, notice was given pursuant to Section 94-7 of the City Code, to each owner or party- interest of property to be assessed, and

WHEREAS, the Commission has deemed it practicable to cause payment of the cost thereof to be made at a date closer to the time of construction and Commission Resolution 04-109-16 provided it would meet this 25th day of April 25, 2016 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this April 25, 2016 all those property owners or their representatives present have been given an opportunity to be heard specifically concerning costs appearing in said special assessment roll as determined in Section 94-9 of the Code of the City of Birmingham,

NOW, THEREFORE, BE IT RESOLVED, that Special Assessment Roll No. 875 be in all things ratified and confirmed, and that the City Clerk be and is hereby instructed to endorse said roll, showing the date of confirmation thereof, and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement.

BE IT FURTHER RESOLVED, that special assessments shall be payable in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of four and a quarter percent (4.25%) on all unpaid installments.

VOTE: Yeas, 7
Nays, None
Absent, None

04-125-16 NEIGHBORHOOD IDENTIFICATION SIGNAGE POLICY

City Planner Ecker explained that in 2004, the City approved a wayfinding and signage design program. One of the signs recommended in the plan was a neighborhood identification sign. She stated that the City has received numerous requests to place these signs within the neighborhoods. She noted that the proposed policy would determine who would pay for the signs, location of the signs, and how many a neighborhood could have.

Commissioner Bordman expressed concern as the City is undertaking a new branding effort and it would be premature to authorize any more signs until the logo is complete. She questioned who would pay for the signage.

Mayor Pro Tem Nickita commented that it is a good plan, but shares the concern regarding the graphic and funding. He noted that plan is not ready as there are additional questions as to how it would be rolled out more completely, collectively and logistically.

Commissioner Sherman questioned if the neighborhoods should be identified with signage. He questioned if this is a want or a need and where it fits into the City’s priorities.

Commissioner Boutros questioned whether this would identify the elements of the neighborhood or just the street.

Mayor Hoff questioned whether the Commission wants neighborhood signs and where would they be located. She also expressed concern with the graphics on the sign.

Mayor Pro Tem Nickita questioned the purpose of the signage – parking, directional, identification, or to enhance the visitor understanding of different elements of the City. He suggested the Planning Board review this.

Commissioner DeWeese concurred and suggested the wayfinding concept be re-examined.

Commissioner Harris agreed that the policy should be reviewed by the Planning Board as to the standards and implementation.

Commissioner Bordman suggested the Planning Board consider the effect of the neighborhoods being the driver of the signs as not every house identifies itself with a particular neighborhood. Mayor Pro Tem Nickita suggested the Planning Board consider the differentiation of the physical neighborhood.

MOTION: Motion by DeWeese, seconded by Bordman:
To refer this item back to Planning Board with the comments made this evening.

VOTE: Yeas, 7
Nays, None
Absent, None

04-126-16 DELINQUENT WATER/SEWAGE CHARGES TO THE 2016 TAX ROLL

MOTION: Motion by Sherman, seconded by Nickita:
To direct the Treasurer to transfer the following unpaid and delinquent water/sewage bills of the properties listed in the Delinquent Tax List report dated April 15, 2016 to the 2016 city tax roll and authorizing removal from the list any bills paid or a payment plan agreement signed after City Commission approval:

WHEREAS, The City Treasurer, in accordance with Chapter 114, Section 114-303, of the city code has reported certain water/sewage accounts, including interest and penalty, unpaid and delinquent on May 1, 2016, and

WHEREAS, Chapter 114, Section 114-303, of the city code provides that these payments shall be carried to the next annual city tax roll,

NOW, THEREFORE, BE IT RESOLVED, that the properties with unpaid and delinquent water/sewage accounts listed in the report dated April 15, 2016, including interest and penalty, be transferred and reassessed to the 2016 city tax roll and authorization be given to remove from the list any bills paid or a payment plan agreement signed after commission approval.

VOTE: Yeas, 7

Nays, None
Absent, None

**04-127-16 DELINQUENT SPECIAL ASSESSMENTS/INVOICES
TO THE 2016 TAX ROLL**

MOTION: Motion by Sherman, seconded by DeWeese:
To direct the Treasurer to transfer the unpaid and delinquent special assessment and invoices, including interest and penalty, as listed on Sworn Statement of Delinquent and Unpaid Special Assessments and Unpaid Invoices to the 2016 City tax roll and authorizing removal from the list any bills paid after City Commission approval:

WHEREAS, the City Treasurer, in accordance with the provisions in the City Code has reported certain special assessments and invoices, including interest and penalty, unpaid and delinquent on May 1, 2016, and

WHEREAS, the City Code provides that these delinquent special assessments and invoices shall be carried to the next annual City tax roll,

NOW THEREFORE BE IT RESOLVED, that the listing of unpaid and delinquent special assessments and invoices, including interest and penalty, dated April 15, 2016, be transferred and reassessed to the 2016 City tax roll with an additional 15% penalty and authorization be given to remove from the list any bills paid after commission approval.

VOTE: Yeas, 7
Nays, None
Absent, None

VII. REMOVED FROM CONSENT AGENDA

**04-128-16 CITY COMMISSION MINUTES
OF APRIL 11, 2016**

Commissioner Bordman suggested the following revision to Resolution #04-110-16:

- Add "No action was taken on the remaining applications."

MOTION: Motion by Bordman, seconded by DeWeese:
To approve the City Commission minutes of April 11, 2016 as amended.

VOTE: Yeas, 7
Nays, None
Absent, None

**04-129-16 SPECIAL EVENT REQUEST
RUN ON THE TOWN**

Commissioner Bordman expressed concern with the hours for set up at 5:30 AM as construction is not allowed before 7:00 AM. She noted that this park has adjoining residential areas. Clerk Pierce confirmed that the set up hours were the same the past two years. She noted that the City has not received any complaints regarding this event.

Mayor Hoff noted that the music will begin at 7:00 AM and end at 9:00 AM. Commissioner Sherman noted that the run will be held from 7:30 AM – 9:00 AM.

Commissioner Boutros commented that this event has to start and finish early. Had there been any complaints, he would support changes, but since there are no complaints, the City should let them proceed.

Commissioner DeWeese noted that this is the normal pattern for races to begin early so people are not yet using the streets and minimizes the interference with the neighborhood.

Commissioner Bordman expressed opposition to the time of the event.

MOTION: Motion by DeWeese, seconded by Boutros:
To approve a request submitted by Max Broock Realtors requesting permission to hold the Run on the Town on September 17, 2016, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

VOTE: Yeas, 6
Nays, 1 (Bordman)

VIII. COMMUNICATIONS

04-130-16 COMMUNICATIONS

The Commission received the following communication:

- Children's Charities Coalition regarding withdrawal of special event application

IX. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

X. REPORTS

04-131-16 COMMISSIONER REPORTS

The Commission intends to appoint a member to Greenwood Cemetery Advisory Board on May 23, 2016.

04-132-16 COMMISSIONER COMMENTS

Commissioner Bordman noted that she attended the regional transit authority (RTA) meeting and explained that there was very little concrete information other than the route such as the taxing amount to the municipalities and bus fares.

Mayor Pro Tem Nickita explained that Woodward is considered to be part of the bus rapid transit system with occasional stops from the downtown core at Michigan and Cass. It would run along each side of Woodward until the New Center, then north on Woodward to Pontiac. He noted that Woodward would have the light rail street car which is a separate system. He explained that the M1 is not part of the RTA at this time.

Commissioner Harris noted that he read that funding for the RTA may be on the November ballot. Mr. Valentine explained that his understanding is that there is a funding component that will be discussed. Up to that point, it is starting the education as to where it goes, what service it provides, and how it works.

Mayor Pro Tem Nickita requested an update on the number of bistro chairs and tables were originally purchased, how many more is needed and is the City accommodating the way they are being used.

04-133-16 CITY STAFF REPORTS

The Commission received the I-75 Expansion Project Update submitted by Assistant to the City Manager Haines.

City Manager Valentine noted that Berkley, Southfield, and Hazel Park have adopted a resolution in opposition to the project. Mayor Pro Tem Nickita noted that during a charrette he was involved with in Pontiac, an MDOT employee commented that all the money would be involved in the I-75 project and not to plan on funding for local projects.

XI. ADJOURN

The meeting adjourned at 9:15 PM.

Laura M. Pierce
City Clerk